IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 656 to 663 of 2002

With

CIVIL APPLICATIONS No. 5580, 5597, 5593, 5587,
5589, 5595, 5591 & 5582 of 2002.

In

CIVIL APPLICATION No. 1478 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DISTRICT PANCHAYAT

Versus

MULA KANA

Appearance:

MS KHYATI P HATHI for Appellant.

MS YAMINI J DESAI for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE K.A.PUJ

Date of decision: 10/02/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

In this group of 8 Letters Patent Appeals, a short question, which emerges for our consideration, is as to whether the direction in the impugned common order, on Civil Applications dated 8.3.2002 recorded by the learned Single Judge during the pendency of the group of writ petitions under Section 17-B of the Industrial Disputes Act and also directing the appellant to pay the maintenance allowance to each of the original-respondents workmen in each petition with effect from 9th December 1999 to 31st March 2002, is fully justified or not in the facts and circumstances of the case and in the light of the design and desideratum of the provisions of Section 17-B of the ID Act in this group of Appeals under Clause 15 of the Letters Patent to which our straight and short answer is that the expression employed in Section 17-B of the ID Act, 1947, does contemplate for direction to pay last drawn monthly wages including of maintenance allowance admissible to the workmen under any rule. If the workmen had not been employed in any establishment during such period, undoubtedly, makes it clear that order for maintenance allowance can be passed provided it is admissible to the workmen under any rule. The learned advocate, Mr. Hathi, appearing for the appellant has clearly stated that there is no such rule provision, under which maintenance allowance is admissible. Not only that, nothing has been shown contrary to this statement by the other side, and, again, such a request or prayer is also not made in the Civil Application. Obviously, therefore, the direction of maintenance allowance, to each of the original-respondents, is without any substance and is required to be set aside, except that the direction, in common impugned order in the group of writ petitions, requires no interference at this stage.

2. The learned advocate, for the respondents workmen, has also contended, that though the respondents-workmen have been reinstated by the appellant they are not paid the regular wages which other similarly situated persons are paid. The learned advocate for the appellant has submitted that the reinstatement is implemented pursuant to the order of the Court and,

therefore, there is no question of repayment of regular wages, same that of similarly situated persons. We are unable to accept this contention factually as well as legally. There is no direction of reinstatement in the impugned order of the learned Single Judge. Not only that, the question of award of interim payment in terms of the provisions of Section 17-B of the ID Act would arise only when the direction of the Labour Court for reinstatement has not been honoured.

3. In view of the aforesaid observations and modification, this group of Letters Patent Appeal shall stand allowed partly.

4. The Civil Applications filed in the concerned Letters Patent Appeal are disposed of accordingly with no order as to costs.

rmr. [J.N. Bhatt, J.]

[K.A. Puj, J.]